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Ex Parte

September 18, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 12-217

Dear Ms. Dortch:

On September 14, 2017, I spoke by telephone with Martha Heller, Chief, Policy Division of the FCC's Media Bureau, regarding the draft *Report and Order*¹ in the above-captioned proceeding concerning cable television digital technical standards.

NCTA reiterated its view that mandatory “proof of performance” testing for digital signal quality – whether required by the FCC or local franchising authorities – would be unnecessary, costly and disruptive.² Section 626(c)(1)(B), referenced in the draft *Report and Order*,³ does not provide general authority for testing to determine compliance with the FCC's technical standards. This narrow provision allows franchising authorities to consider whether “the quality of the operator's service, including signal quality... has been reasonable in light of community needs” in the specific context of certain franchise renewal proceedings.⁴ NCTA proposed that if the *Report and Order* were to address the issue of franchise renewal-related testing, it should clarify that any such testing should be limited to SCITE 40 parameters and, to avoid unnecessary costs on cable operators and their customers, should accommodate technological advances in testing, such as remote network monitoring.

¹ *In the Matter of Cable Television Technical and Operational Standards*, Draft Report & Order, MB Docket No. 12-217 (rel. Sept. 7, 2017).

² See Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-217 (filed June 27, 2017); see also Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-217 (filed May 25, 2017).

³ Draft Report and Order at n. 58.

⁴ 47 U.S.C. § 546 (c)(1)(B) (describing factors that may be considered in an administrative hearing after a preliminary assessment that a franchise should not be renewed).

In addition, we discussed the issue of signal leakage in frequency bands above 400 MHz. NCTA noted that the draft *Report and Order* finds that the record does not support taking action at this time and acknowledges that the cable industry has proactively provided guidance and recommendations to cable operators on monitoring and measurement practices and procedures for mitigating cable signal leakage, ingress, and direct pickup in the UHF band.⁵ Accordingly, NCTA suggested that it was unnecessary to solicit specific rulemaking petitions on how to prevent interference in these bands.⁶

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: Martha Heller

⁵ Draft Report and Order at n. 127.

⁶ See *id.* at ¶ 33.